

REMARKS

By the present response, claims 1-17 and 19-30 have been amended, and claim 18 has been canceled. Thus, upon entry of the present response, claims 1-17 and 19-48 remain pending and await further consideration on the merits.

In an Official Action dated July 12, 2006, the Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. §121:

- Group I Claims 1-4, 6-15, 19-26 and 34;
- Group II Claims 5, 16-18, 21-28, 31-33 and 35;
- Group III Claims 29-30 and 36-37; and
- Group IV Claims 38-48.

Accordingly, Applicant provisionally elects Group I, the subject matter of claims 1-4, 6-15, 19-26 and 34, with traverse. Applicant submits that the second restriction requirement is in error.

It is alleged in paragraph 2 of the Official Action that Group I is drawn to a pressable dental ceramic, Group II is drawn to a dental restoration, Group III is drawn to a press-to-metal dental restoration, and Group IV is directed to a method of making a dental restoration. It is further alleged in paragraph 2 of the Official Action that Groups I-III are directed to related products, yet are patentably distinct from one another. Applicants traverse the restriction requirement on the grounds that the inventions as claimed overlap in scope. See MPEP §806.05(j). Nonetheless, by the present response, claims 16, 17 and 27-30 have been amended in a manner since they are all now directed to the dental ceramic of either claim 1 or claim 19. Thus, these claims now correspond to the invention designated as corresponding to Group

I of the restriction requirement. **Claims 1-17 and 19-30 are now all directed to the dental ceramic of Group I. Thus, these claims are all examinable together consistent with the above election of Group I.**

In addition, as set forth in M.P.E.P. § 803, there are two criteria for a proper restriction requirement: (1) the inventions must be independent or distinct as claimed; and (2) there must be a **serious burden** on the Examiner if restriction is not required. This portion of the M.P.E.P. requires that if the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on the merits, even though it includes claims to distinct or independent inventions. In this regard, it is noted that the present application serves as a basis for priority to International Application PCT/US2003/33018 filed on October 17, 2003. This PCT application was filed with claims 1-48 corresponding to claims 1-48 of the present U.S. application. All 48 claims were searched as indicated on the Search Report of March 8, 2004. Subsequently, all 48 claims were examined together and were the subject matter of a Written Opinion rendered on October 5, 2004. Thus, all 48 claims currently pending have already been searched and examined in the corresponding PCT application. Thus, there is very clearly no serious burden placed on the U.S. Patent and Trademark Office to consider and examine all pending claims together in a single U.S. application, as has already been done in the corresponding International application.

Accordingly, reconsideration and withdrawal of the aforementioned restriction requirement is respectfully requested. The provisional election is hereby made

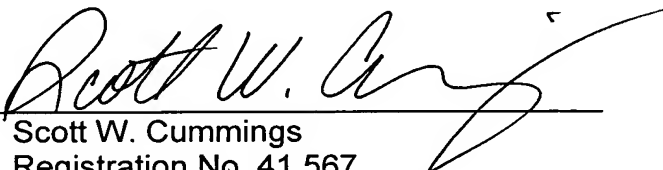
without prejudice to applicant's right to file a divisional application or applications
should the restriction requirement become final.

Respectfully submitted,

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